

Article 2.

Loans Secured by Secondary or Junior Mortgages.

§ 24-12. Applicability of Article.

This Article shall apply only to loans of money:

- (1) Secured in whole or in part by a security instrument on real property, other than a first security instrument on real property; and
- (2) The principal amount of the loan does not exceed twenty-five thousand dollars (\$25,000);
- (3) The loan is repayable in no less than six nor more than 181 successive monthly payments, which payments shall be substantially equal in amount. (1971, c. 1229, s. 2; 1979, 2nd Sess., c. 1157, ss. 2, 3.)

§ 24-13. Principal amount defined.

The aggregate of the amount or value actually received at the time of the loan, plus the charges allowed by G.S. 24-14(b) (c) and (f); plus the sum of all existing indebtedness of the borrower paid on his behalf by the lender, shall be deemed the principal amount of the loan. (1971, c. 1229, s. 2; 1979, 2nd Sess., c. 1157, s. 4; 1985, c. 154, s. 3.)

§ 24-14. Limitations on charges and interest.

(a) No person, copartnership, association, trust, corporation or other legal entity making loans under this Article may charge, take or receive, directly or indirectly, simple interest in excess of one and one-half percent (1 ½%) per month or an annual rate equivalent to the Federal Discount Rate plus five percent (5%), whichever is the greater, computed on the actual or average daily unpaid balance of the principal amount of the loan for the time actually outstanding. However, interest may not be compounded.

(b) In addition to the interest permitted in subsection (a), the lender may include in the loan his actual expenses which are paid to third parties in connection with the loan. Such expenses shall be limited to those for: title examination, title insurance, appraisals, surveys, and recording fees or releasing fees to trustees or public officials, and only such insurance charges as permitted in subsection (c).

(c) Evidence of hazard insurance may be required by the lender of the borrower. Credit life, credit accident and health, and credit unemployment insurance, or any of them, may be offered but not required; provided (i) that the borrower has indicated a desire to purchase such insurance by signing a statement to that effect, (ii) that the borrower is advised that he may acquire this insurance from any insurance carrier, (iii) that the borrower is aware that this insurance may be rescinded within 30 days after receipt of the policy or certificate, and (iv) that the borrower directs the lender to purchase the above insurance from the proceeds of his loan.

The rates for the herein described insurance shall not exceed the standard rates approved by the Commissioner of Insurance for such insurance. Proof of all insurance issued in connection with loans subject to this Article shall be furnished to the borrower within 10 days from the date of application therefor by said borrower.

(d) No application fee or other charge shall be allowed in the event the loan is not consummated.

(e) The borrower shall further have the right to anticipate payment of his debt in whole or in part at any time, without payment of interest penalty, or any other fee or charge for such prepayment.

(f) In addition to the interest permitted by subsection (a), the lender may include in the principal balance fees or discounts not exceeding two percent (2%) of the principal amount of the loan less the amount of any existing loan by that lender to be refinanced, modified or extended. The fees and discounts are fully earned when the loan is made and are not a prepayment penalty. (1971, c. 1229, s. 2; 1973, c. 1150; 1977, c. 698, ss. 1, 2; 1979, 2nd Sess., c. 1157, ss. 5, 6; 1981, c. 464, s. 4; 1985, c. 154, s. 4; 1993, c. 226, s. 13.)

§ 24-15: Repealed by Session Laws 1979, 2nd Session, c. 1157, s. 7.

§ 24-16. Itemized closing statements.

Any person, copartnership, association, trust, corporation, or any other legal entity making on its own behalf, or as agent, broker or in other representative capacity on behalf of any other person, copartnership, association, trust, corporation or any other legal entity, a loan or real property financing transaction within the regulatory authority of this Article, at the time of the closing shall furnish the debtor or borrower or grantor in the mortgage, deed of trust or any other security instrument, in addition to the disclosures required by federal law known as "Truth in Lending," a complete and itemized closing statement which shall show all disbursements of the loan proceeds and which shall total the principal amount of the loan or security transaction, and the said closing statement shall be signed by the lending agency or a representative of the lending agency, or a responsible officer in its behalf and a completed and signed additional copy retained in the files of the lending agency involved and available at all reasonable times to the borrower, the borrower's successor in interest to the security real property, or the authorized agent of the borrower or the borrower's successor, until such time as the security instrument shall be satisfied in full. Such closing statement shall contain the following language printed in a conspicuous manner:

"This loan is one regulated by the provisions of Chapter 24, Article 2 of the General Statutes of North Carolina entitled 'Loans Secured by Secondary or Junior Mortgages'." (1971, c. 1229, s. 2.)

§ 24-16.1. Loans exempt from §§ 24-12 to 24-17.

G.S. 24-12 to 24-17 shall not apply to loans made by banks, insurance companies, or their duly designated agents compensated directly by the lender, duly licensed credit unions, production credit associations authorized by the Farm Credit Act of 1933, or savings and loan associations authorized to do business in this State, or to loans made by any other lender licensed by, and under the supervision of, the Commissioner of Banks and the State Banking Commission, under the provisions of Chapter 53 of the General Statutes, or the Commissioner of Insurance, under the provisions of Chapter 58 of the General Statutes. Provided, any lender approved as a mortgagee by the Federal Housing Administration shall be entitled to make loans under this Article.

G.S. 24-12 to 24-17 shall not apply to a loan made under Article 1 of this Chapter. (1971, c. 1229, s. 2; 1983, c. 126, s. 9; 1985, c. 154, s. 5.)

§ 24-17. Misdemeanors.

A wilful or knowing violation of G.S. 24-12 through G.S. 24-16 is hereby made a Class 1 misdemeanor. (1971, c. 1229, s. 2; 1993, c. 539, s. 400; 1994, Ex. Sess., c. 24, s. 14(c).)